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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,970	03/14/2001	Amy M. Manetta	2000P09097US01	3927
7590	03/23/2005		EXAMINER	
Jack J. Schwartz & Associates 1350 Broadway Suite 1507 New York, NY 10018-7702			CHUONG, TRUC T	
			ART UNIT	PAPER NUMBER
			2179	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/805,970

Applicant(s)

MANETTA, AMY M.

Examiner

Truc T Chuong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is responsive the amendment, filed 12/16/04.
2. Claims 1-22 are pending in this application. In the Amendment, claims 1 and 12 are independent claims, and claims 1, 3-5, 12, 14, and 15 are amended. This action is made final.

#### ***Election/Restrictions***

3. Applicant's election without traverse of Group I (claims 1-22) in the reply filed on 12/16/04 is acknowledged. Claims 23-27 are non-elected claims; therefore, claims 23-27 are cancelled in this application.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmore et al. (U.S. Patent No. 5,931,160) in view of Reuss et al. (U.S. Patent No. 6,406,426 B1).

As to claim 1, Gilmore teaches a system for displaying medical information comprising:  
a communication network for acquiring ventilator parameters associated with a patient on a substantially periodic basis and in response to a user command (ventilation status of a patient, e.g., col. 4 lines 35-58, and figs. 4 & 12);

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a device for prioritizing received ventilator parameters for display in a desired order and for allocating an attribute to distinguish changed ventilator parameters (control and setup the alarm in different levels, e.g., col. 2 line 64-col. 3 line 18, col. 4 lines 50-67, col. 13 lines 12-35, and figs. 4 & 6); and

a display generator for initiating generation of data representing a display of prioritized ventilator parameters in the desired order and attributes for distinguishing changed ventilator parameters (e.g., col. 2 line 64-col. 3 line 18, col. 4 lines 50-67, col. 13 lines 12-67, and figs. 4 & 6);

however, Gilmore does not teach that the system is an internet compatible and the medical information derived from a plurality of sources. Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, PCs, etc. (e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 3-10). It would have been obvious at the time of the invention, a person with ordinary skill in the art would want to have the Medical Monitoring and Alert System of Reuss in the Ventilator Control System of Gilmore to help the users rapidly deliver medical data, quickly and remotely respond/access to the emergency events even outside the facility (e.g., col. 3 lines 39-45).

As to claim 12, it is a method claim of system claim 1. Note the rejection of claim 1 above.

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6. Claims 2-11, and 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmore et al. (U.S. Patent No. 5,931,160) in view of Reuss et al. (U.S. Patent No. 6,406,426 B1), and further in view of Shulman et al. (U.S. 2001/0030664 A1).

As to claim 2, the modified Gilmore teaches the system to send and received parameter information (attribute) as mentioned in claim 1 above; however, Gilmore in view of Reuss still does not show wherein the attribute is a different color. Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). It would have been obvious at the time of the invention, a person with ordinary skill in the art would want to apply the Shulman's color status features in the modified Ventilator Control System of Gilmore to provide better visualization for user to determine status information for each element of a network.

As to claim 3, the modified Gilmore teaches the system of claim 2 wherein the communication network further acquires ventilator settings, as well as the parameters; and the device further prioritizes received ventilator settings, as well as the received parameters (e.g., col. 4 lines 35-58).

As to claim 4, the modified Gilmore teaches the system of claim 3 wherein the display generator generates data representing a window for displaying said ordered ventilator parameters and settings in a first window (by selecting the control button in fig. 4, the user can set the parameters as desired, e.g., col. 13 lines 8-35, and figs. 4 & 6).

As to claim 5, Gilmore in view of Reuss teach the system of claim 4 wherein the display generator comprises an Internet browser (Reuss, e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 3-10).

As to claim 6, this can be rejected as similar rationale as claim 2 above.

As to claim 7, the modified of Gilmore teaches the system of claim 3 wherein the device, in response to the user command, acquires a new set of ventilator parameters and settings (the user can define the different settings as desired, e.g., col. 13 lines 8-35, lines 40-col. 67, and figs. 4 & 6).

As to claim 8, the modified Gilmore teaches the system of claim 3 wherein the device prioritizes the received ventilation unit parameters and settings for display in a desired order in response to a second user command (by selecting the other control button in fig. 4, the user can set the parameters as desired, e.g., col. 13 lines 8-35, and figs. 4 & 6).

As to claim 9, the modified Gilmore teaches the system of claim 8 wherein the second user command comprising selection of a filtered list (if the user selects one of the option buttons in fig. 4 such as waveforms or log of events, only that type of data will be displayed on the second window).

As to claim 10, the modified Gilmore teaches the system of claim 8 wherein the second user command comprising creation of a set of values for selected parameters and settings (by selecting the control button in fig. 4, the user can set the parameters as desired, e.g., col. 13 lines 8-35, and figs. 4 & 6).

As to claim 11, the modified Gilmore teaches the system of claim 4 wherein said menu generator comprises a user selection for selecting any one of the plurality of sources (note the rejection of claim 1 above).

As to claims 13-22, they are method claims of system claims 2-11. Note the rejections of claims 2-11 above respectively.

*Response to Arguments*

7. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 571-272-4134. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather R. Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

03/17/05

  
BA HUYNH  
PRIMARY EXAMINER